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TO: Members of the Insurance and Real Estate Committee

FROM: Appraisal Institute
Contact: Scott DiBiasio

RE: HB No. 6677 (Raised) – An Act Concerning Broker Price Opinions

POSITION: Oppose

Consumers of valuation services are entitled to obtain a credible and reliable opinion of the value of real estate that is performed by a person who is competent and qualified and remains independent, impartial, and objective. There are no such assurances when a broker or salesperson offers an opinion of value, a broker price opinion or a comparative market analysis.

Chairman Crisco, Chairman Megna and Members of the Insurance and Real Estate Committee, the Appraisal Institute appreciates the opportunity to supplement the testimony of our Connecticut Chapter in opposition to House Bill 6677, An Act Concerning Broker Price Opinions.

The Appraisal Institute is a global professional association of real estate appraisers, with nearly 21,000 professionals in almost 60 countries throughout the world, including several hundred Designated Members, Candidates for Designation and Affiliates in Connecticut. Its mission is to advance professionalism and ethics, global standards, methodologies, and practices through the professional development of property economics worldwide. Individuals of the Appraisal Institute benefit from an array of professional education and advocacy programs, and may hold the prestigious MAI, SRPA, SRA, AI-GRS, and AI-RRS designations.

If enacted into law, HB 6677 would permit licensed real estate brokers and salespersons to offer estimates of the value of real estate, broker price opinions (BPO), and comparative market analyses (CMA) for compensation without any limitations.

HB 6677 goes far and beyond the BPO bill (HB 5417) that this legislature considered in 2012. HB 6677 would not only allow brokers and salespersons to offer BPO and CMA services for any purpose, but it would also allow them to offer opinions of the value of real estate. In fact, HB 6677 is unlike any other BPO/CMA related legislation in any state that the AI has worked on over the last several years.

If HB 6677 is enacted into law, it would instantaneously make "appraisers" out of the approximately 22,000 real estate brokers and salespersons in Connecticut by allowing them to estimate the value of real estate for any purpose, except for federally related mortgage lending

transactions where an appraisal prepared in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) by a state-certified appraiser is required by federal law. The only limitation on brokers and salespersons offering opinions of the market value of real estate would be that they would be prohibited from referring to themselves as state-certified appraisers or to their work product as an appraisal. The purposes for which real estate brokers and salespersons would be permitted to provide opinions of the value of commercial and residential real estate include some mortgage lending transactions, taxation, litigation support, estate settlements, divorce, investment advisory services, insurance valuation, easements, and many more.

Make no mistake about it, whether or not a broker or salesperson's opinion of the value of a parcel of real estate is referred to as an appraisal, an opinion of value, a BPO, a CMA or any other term of art, because it will contain a market value, the users of appraisal services will consider them to be the equivalent of appraisals performed by state-certified appraisers. This creates a competitive disadvantage for state-certified real estate appraisers, who must adhere to specific rules found in USPAP when completing any valuation service. It will be extremely difficult for the marketplace to differentiate between an appraisal performed by a competent and qualified state-certified appraiser and a market value opinion developed by a real estate broker or salesperson. In addition, because they will contain a market value opinion, federally regulated financial institutions will be permitted to use broker and salesperson opinions of value in the development of evaluations for residential and commercial mortgage lending transactions when a USPAP-compliant appraisal performed by a state-certified appraiser is not required by federal law.

If HB 6677 is enacted into law, there would be a dual system of oversight and regulation of persons who offer opinions of the value of real estate. On the one hand, real estate appraisers are required to be state-certified after having satisfied rigorous education, experience, and examination requirements.¹ As of January 1, 2015 a person who desires to become a state-certified real estate appraiser must have a Bachelor's Degree. Real estate appraisers are also required to follow USPAP and are closely regulated by the Department of Consumer Protection and the Real Estate Appraiser Commission. The federal Appraisal Subcommittee is required to keep close watch over the state's appraiser certification program to ensure that it is in compliance with federal law.

On the other hand, HB 6677 would allow other persons to provide very similar opinions of the value of real estate after having satisfied only the requirements to obtain a real estate broker or salesperson's license – generally obtained by completing a 60 hour course. Further, we note that real estate brokers and salespersons providing opinions of the value of real estate would be regulated by DCP and Real Estate Commission, which would incur significant added costs associated with adequately regulating these new broker/salesperson-provided valuation services. Importantly, real estate brokers and salespersons providing opinions of the value of real estate would not be required to adhere to any standards in developing those opinions.

¹ A person desiring to obtain a Certified Residential Appraiser credential must complete 200 hours of education and obtain 2,500 hours of experience working under the supervision of another state-certified appraiser. A person desiring to obtain a Certified General Appraiser credential must complete 300 hours of creditable education and 3,000 hours of experience working under the supervision of another Certified General Appraiser.

When offering an opinion of the value of real estate, a state-certified appraiser is required by law to be independent of the transaction and to render their services in an objective and impartial manner. The same is not true of real estate brokers and salespersons who are required to be advocates for their clients, and very often have a financial interest in the transaction. This advocacy role could result in a real estate broker or salesperson reporting a pre-determined value, or otherwise altering their value opinion to meet the needs of their client. The potential for bias does not exist when a broker or salesperson is preparing a BPO or a CMA to assist a seller or purchaser of real estate with establishing a listing or a purchase price as is allowed under current law. In fact, bias in favor of their client is appropriate when a real estate broker or salesperson is assisting a client in the purchase or sale of real estate. However, this bias and advocacy is completely inappropriate when providing a value opinion for any other purpose.

This is not a "turf war" between real estate brokers and salespersons and state-certified appraisers. Rather, our opposition to HB 6677 is to protect the users of appraisal services, including consumers, lenders, attorneys, courts, government agencies, investors, and insurance companies when they have a need to obtain an accurate and credible opinion of the value of real estate that is performed by a person who is independent, impartial, and objective. There are no such assurances when a broker or salesperson offers an opinion of value, a BPO, or a CMA.

The Appraisal Institute respectfully requests that the Insurance and Real Estate Committee not provide a Favorable Report on HB 6677.